

FAX TRANSMISSION**RECEIVED
CENTRAL FAX CENTER****JUL 18 2006**DATE: *July 18, 2006*PTO IDENTIFIER: Application Number 10/561,704-Conf. #8192
Patent Number

Inventor: Jörn Karl et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: CONNOLLY BOVE LODGE & HUTZ LLP
Ashley I. Pezzner

PHONE: (302) 658-9141

Attorney Dkt. #: 12810-00184-US

PAGES (Including Cover Sheet): 15CONTENTS: Transmittal Of International Preliminary Report On Patentability
International Preliminary Report On Patentability
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CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street, P.O. Box 2207, Wilmington, Delaware 19899
Telephone: (302) 658-9141 Facsimile: (302) 658-5614

476978_1

Application No. (if known): 10/661,704

Attorney Docket No.: 12810-00184-US

RECEIVED
CENTRAL FAX CENTER

JUL 18 2006

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Transmittal Of International Preliminary Report On Patentability
International Preliminary Report On Patentability

476978_1

Application No.: 10/561,704

Docket No.: 12810-00184-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jörn Karl et al.

**RECEIVED
CENTRAL FAX CENTER**

JUL 18 2006

Application No.: 10/561,704

Confirmation No.: 8192

Filed: December 22, 2005

Art Unit: N/A

For: COATED PREPARATIONS THAT CONTAIN
AT LEAST ONE HYDROFORMATE

Examiner: Not Yet Assigned

**TRANSMITTAL OF INTERNATIONAL PRELIMINARY REPORT ON
PATENTABILITY**

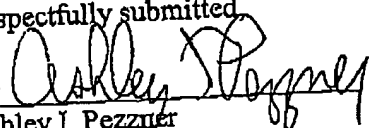
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant submits herewith the International Preliminary Report On Patentability issued in the corresponding international application. The PCT Examiner noted that claims 9-11 and 20 had novelty.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-2775, under Order No. 12810-00184-US.

Respectfully submitted,

By 
Ashley I. Pezzner

Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, Delaware 19899
(302) 658-9141
Attorney for Applicant

476976_1

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 0000054643	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/006296	International filing date (day/month/year) 11 June 2004 (11.06.2004)	Priority date (day/month/year) 24 June 2003 (24.06.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant BASF AKTIENGESELLSCHAFT			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 12 sheets, including this cover sheet.
In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 740 14 35 Form PCT/IB/373 (January 2004)	Date of issuance of this report 01 May 2006 (01.05.2006)
	Authorized officer Yolaine Cussac Telephone No. +41 22 338 70 80

PATENT COOPERATION TREATY

Translation

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing
(day/month/year)

FOR FURTHER ACTION

See paragraph 2 below

Applicant's or agent's file reference

0000054643

International application No.

PCT/EP2004/006296

International filing date (day/month/year)

11.06.2004

Priority date (day/month/year)

24.06.2003

International Patent Classification (IPC) or both national classification and IPC

Applicant

BASF AKTIENGESELLSCHAFT

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b(a)(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under
Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing☐ table(s) related to the sequence listing

b. format of material

☐ in written format☐ in computer readable form

c. time of filing/furnishing

☐ contained in the international application as filed.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Form PCT/ISA/237 (Box No. I) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Form PCT/ISA/237 (Box No. II) (January 2004)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2004/006296
Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability		
The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:		
<input type="checkbox"/> the entire international application <input type="checkbox"/> claims Nos. _____		
because:		
<input type="checkbox"/> the said international application, or the said claims Nos. _____ relate to the following subject matter which does not require an international preliminary examination (specify):		
<input type="checkbox"/> the description, claims or drawings (indicate particular elements below) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (specify):		
<input type="checkbox"/> the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.		
<input type="checkbox"/> no international search report has been established for said claims Nos. _____		
<input type="checkbox"/> the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:		
the written form	<input type="checkbox"/> has not been furnished <input type="checkbox"/> does not comply with the standard	
the computer readable form	<input type="checkbox"/> has not been furnished <input type="checkbox"/> does not comply with the standard	
<input type="checkbox"/> the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.		
<input checked="" type="checkbox"/> See Supplemental Box for further details.		

Form PCT/ISA/237 (Box No. III) (January 2004)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2004/006296
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
1. Statement		YES
Novelty (N)	Claims 9-11, 20	NO
	Claims 1-8, 12-19	
Inventive step (IS)	Claims	YES
	Claims 1-20	NO
Industrial applicability (IA)	Claims 1-20	YES
	Claims	NO
2. Citations and explanations:		
1 Reference is made to the following documents:		
D1: EP-A-1 273 238 (BASF AG) 8 January 2003 (2003-01-08)		
D2: EP-A-0 009 366 (BP NUTRITION) 2 April 1980 (1980-04-02)		
D3: US-A-4 220 661 (HUITSON JOHN J) 2 September 1980 (1980-09-02)		
D4: FURUMOTO CHIKASHI ET AL: "AMMONIUM TETRAFORMATE-CONTAINING COMPLETE FEED COMPOSITIONS AND THEIR MANUFACTURE" STN CAPLUS, 1989, XP002945138		
D5: GB-A-1 587 518 (BP CHEM INT LTD) 8 April 1981 (1981-04-08)		
D6: WO 99/12435 A (SELMER OLSEN INGVAR; HJOERNEVIK LEIF (NO); NORSK HYDRO AS (NO); ANDER) 18 March 1999 (1999-03-18)		
D7: GIBBS B F ET AL: "ENCAPSULATION IN THE FOOD INDUSTRY: A REVIEW" INTERNATIONAL JOURNAL OF FOOD SCIENCES AND NUTRITION, CARFAX PUBLISHING LTD, GB, Vol. 50, No. 3, 1999, pages 213-224, XP009013399 ISSN: 0963-7486		

Form PCT/ISA/237 (Box No. V) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Novelty

2 The subject matter

- of the independent product claim 1,
- of the independent process claim 6,
- of the independent process claim 7,
- of the independent process claim 8,
- of the independent use claim 12,
- of the independent use claim 13,
- of the independent use claim 14,
- of the independent product claim 15,
- of the independent use claim 16,
- of the independent use claim 17,
- of the independent use claim 18 and
- of the independent use claim 19

is not novel within the meaning of PCT Article 33(2). The relevant passages can be found in the international search report.

- 2.1 D1 discloses sodium tetraformate which is coated with starch, silicate and other substances (see also table Ia, composition 1-4 and 6-9). The tetraformate thus provided in the feedstuff is more efficient than formic acid and enhances the weight gain in piglets (example 3). The particle size of 10 mm is considered as being implied by the disclosure. The compositions are prepared by mixing the components.
- 2.2 D2 discloses silica gel, coated with ammonium tetraformate, which in turn is coated with whey and fats, and added to feedstuffs. The composition acts as growth promoter and preservative.
- 2.3 D3 discloses coated silage compositions with ammonium tetraformate and preserving compositions of ammonium-tetraformate-coated bone meal.

Form PCT/ISA/237 (Box No. V) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

- 2.4 D4 discloses the mixing and thus coating of ammonium tetraformate with other substances. The compositions are used in silage making and as animal feed.

Inventive step

- 3 No expert opinion on the inventive step can be provided at the current stage of the examination.
- 3.1 In the light of the disclosure of D5 and D6, coating tetraformate with supports such as molasses, sugars, surfactants, polyols and polyglycosides appears to be insignificant for the expert. None of the coating substances listed in items a) to x) in claim 4 has been shown to have a particular technical effect which exceeds what the expert is taught in D1. This is why each of the coating substances listed under a) to x) is considered to be an obvious, alternative coating substance.
- 3.2 In the light of D7, the subject matter of claims 9-11, which describes alternative preparation methods, appears to be insignificant for the expert.
- 3.3 The use of formates as fertilizers is generally known. In the absence of additional, surprising technical effects of the use of tetraformates according to the application in fertilizers in the application document, the subject matter of claim 20 is considered to be an obvious, alternative formate-containing fertilizer.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. VI Certain documents cited

1. Certain published documents (Rule 43bis.1 and 70.10)

Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
WO 2004/017753	04.03.2004	20.08.2003	22.08.2002

2. Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)Date of written disclosure
referring to non-written disclosure
(day/month/year)

See form 210

Form PCT/ISA/237 (Box No. VI) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

- 1 Contrary to PCT Rule 5.1(a)(ii), the description does not cite D1-D6 or indicate the relevant prior art disclosed therein.

Form PCT/ISA/237 (Box No. VII) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Box No. VIII

Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 1 In claims 7-20 of the application, the expression "preparations according to at least one of the preceding claims" is interpreted as "preparations according to claims 1-5" (PCT Article 6).

Form PCT/ISA/237 (Box VIII) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/006296

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box III

- 1 The subject matter relating to the liquid preparations (see page 5 of the description) is not mentioned in the set of claims and was therefore not the subject of the international search (PCT Article 6).

Form PCT/ISA/237 (Supplemental Box) (January 2004)